

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NORMAN BLAGMAN, individually and on behalf of all others similarly situated,

Plaintiff,

v.

APPLE INC., AMAZON.COM, INC., GOOGLE INC., MICROSOFT CORPORATION, EMUSIC.COM INC., THE ORCHARD ENTERPRISES, INC., ORCHARD ENTERPRISES NY, INC.,

And John Does 1-10, persons and entities whose identities are unknown to Plaintiff but who have performed and participated in the unlawful acts alleged herein,

Defendants.

Civil Action No.
1:12-CV-5453 (ALC)(JCF)

ANSWER OF DEFENDANT AMAZON.COM, INC. TO THIRD AMENDED CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Defendant Amazon.com, Inc. (“Amazon”) by its undersigned attorneys, for its Answer to the Third Amended Class Action Complaint (the “Complaint”) of plaintiff Norman Blagman (“Plaintiff”), states as follows::

GENERAL DENIAL

Except as otherwise expressly admitted herein, Amazon denies each and every allegation contained in the Complaint, including, without limitation, any allegations contained in the preamble, headings, subheadings or footnotes of the Complaint, and specifically denies any liability to Plaintiff. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, moreover, allegations in the Complaint to which no responsive pleading is required shall be deemed to be denied. Amazon expressly reserves the right to seek to amend and/or supplement its Answer as may be necessary.

RESPONSE TO SPECIFIC ALLEGATIONS

AND NOW, incorporating the foregoing, Amazon states as follows in response to the specific allegations in the Complaint:

1. To the extent the allegations in Paragraph 1 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon admits that Plaintiff purports to describe the nature of this action. Except as expressly admitted, Amazon denies the allegations in Paragraph 1 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 1 relating to any other defendant and therefore denies those allegations.

2. To the extent the allegations of Paragraph 2 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon admits on information and belief that Plaintiff purports to bring this lawsuit individually and on behalf of others. Except as expressly admitted, Amazon denies the allegations in Paragraph 2.

3. To the extent the allegations of Paragraph 3 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon admits that it operates a digital music retail store. Except as expressly admitted, Amazon denies the allegations in Paragraph 3 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 3 relating to any other defendant and therefore denies those allegations.

4. To the extent the allegations in Paragraph 4 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 4 and therefore denies those allegations.

5. To the extent the allegations in Paragraph 5 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 5 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 5 relating to any other defendant and therefore denies those allegations.

6. To the extent the allegations in Paragraph 6 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 6 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 6 relating to any other defendant and therefore denies those allegations.

7. To the extent the allegations in Paragraph 7 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 7 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 7 relating to any other defendant and therefore denies those allegations.

8. To the extent the allegations in Paragraph 8 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 8 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 8 relating to any other defendant and therefore denies those allegations.

9. To the extent the allegations in Paragraph 9 identify exhibits to the Complaint or set forth one or more legal conclusions, they require no response. Amazon further states that it

lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 9 and therefore denies those allegations.

10. To the extent the allegations in Paragraph 10 set forth one or more legal conclusions, they require no response. To the extent a response is required, Amazon admits that it receives a portion of all payments from digital downloads of sound recordings offered subject to applicable Terms and Conditions and downloaded from Amazon. Subject to the foregoing, Amazon denies the allegations in Paragraph 10 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 10 relating to any other defendant and therefore denies those allegations.

11. To the extent the allegations in Paragraph 11 set forth one or more legal conclusions or opinions and not factual allegations, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 11 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 11 relating to any other defendant and therefore denies those allegations.

12. To the extent the allegations in Paragraph 12 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 12 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 12 relating to any other defendant and therefore denies those allegations. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 12 and therefore denies those allegations.

13. To the extent the allegations in Paragraph 13 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in

Paragraph 13 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 13 relating to any other defendant and therefore denies those allegations.

14. To the extent the allegations in Paragraph 14 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon admits upon information and belief that Plaintiff purports to seek the relief stated in Paragraph 14. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 14 relating to any other defendant and therefore denies those allegations. Except as expressly admitted, Amazon denies the allegations in Paragraph 14.

15. Paragraph 15 contains conclusions of law for which no response is required.

16. For the purposes of this action, Amazon does not challenge the personal jurisdiction of this Court over Amazon. Amazon admits for the purposes of this action that it has conducted and does conduct business within the State of New York. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 16 relating to any other defendant and therefore denies those allegations.

17. Paragraph 17 contains allegations of jurisdiction and venue for which no response is required. Subject to the foregoing, Amazon denies that it has committed unlawful acts of infringement in this Judicial District. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 17 relating to any other defendant and therefore denies those allegations.

18. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 18 and therefore denies those allegations.

19. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 19 and therefore denies those allegations.

20. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 20 and therefore denies those allegations.

21. Amazon admits the allegations of Paragraph 21.

22. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 22 and therefore denies those allegations.

23. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 23 and therefore denies those allegations.

24. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 24 and therefore denies those allegations.

25. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 25 and therefore denies those allegations.

26. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 26 and therefore denies those allegations.

27. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 27 and therefore denies those allegations.

28. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 28 and therefore denies those allegations.

29. To the extent the allegations in Paragraph 29 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 29 and therefore denies those allegations.

30. To the extent the allegations in Paragraph 30 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 30 and therefore denies those allegations.

31. To the extent the allegations in Paragraph 31 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 31 and therefore denies those allegations.

32. To the extent the allegations in Paragraph 32 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 32 and therefore denies those allegations.

33. The allegations in Paragraph 33 identify exhibits to the Complaint and therefore no response is required. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 33 and therefore denies those allegations.

34. To the extent the allegations in Paragraph 34 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 34 and therefore denies those allegations.

35. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 35 and therefore denies those allegations.

36. To the extent the allegations in Paragraph 36 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 36 and therefore denies those allegations.

37. To the extent the allegations in Paragraph 37 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 37 and therefore denies those allegations.

38. The allegations in Paragraph 38 identify exhibits to the Complaint and therefore no response is required. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 38 and therefore denies those allegations.

39. To the extent the allegations in Paragraph 39 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 39 and therefore denies those allegations.

40. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 40 and therefore denies those allegations.

41. To the extent the allegations in Paragraph 41 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 41 and therefore denies those allegations.

42. To the extent the allegations in Paragraph 42 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 42 and therefore denies those allegations.

43. To the extent the allegations in Paragraph 43 identify exhibits to the Complaint or set forth one or more legal conclusions, no response is required. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 43 and therefore denies those allegations.

44. To the extent the allegations in Paragraph 44 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 44 and therefore denies those allegations.

45. To the extent the allegations in Paragraph 45 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 45 and therefore denies those allegations.

46. To the extent the allegations in Paragraph 46 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 46 and therefore denies those allegations.

47. To the extent the allegations in Paragraph 47 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient

knowledge or information to form a belief as to the truth of the allegations in Paragraph 47 and therefore denies those allegations.

48. To the extent the allegations in Paragraph 48 identify exhibits to the Complaint or set forth one or more legal conclusions, they require no response. Amazon further states that no response is required to the allegations in Paragraph 48 because they contain undefined terms. To the extent a response is required, Amazon denies that it is presently importing, exporting, reproducing, distributing, and/or selling digital recordings embodying the Subject Compositions as individual downloads or as part of any albums listed on the chart annexed to the Complaint as Exhibit E. Amazon admits that, in the past, it was authorized by third parties to offer through its Amazon Music store the digital phonorecord delivery of certain sound recordings embodying the nondramatic musical works entitled (i) "The Prowl"; (ii) "Jazz Is His Old Lady & My Old Man"; and (iii) "It'll Never Be Over for Me," as part of the record albums entitled, respectively, (i) "Popcorn-60s Cool Kids" and "Rare Oldies R&B Soul"; (ii) "Him & Her," "All Time Classics," "One Night Only!" and "Legends of Jazz, Vol. 1" and (iii) "Let Me Go Lover," "The Genius of Timi Yuro" "Truly Timi Yuro," "The Outstanding Timi Yuro," "The Sensational Timi Yuro," "The Remarkable Timi Yuro," "Just Timi Yuro," "Timi Yuro Gold" "The Classic Decades Presents," "The Queen of R&B" and "Forever Timi Yuro." Except as expressly admitted, Amazon denies the allegations in Paragraph 48 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 48 relating to any other defendant and therefore denies those allegations.

49. To the extent the allegations in Paragraph 49 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 49 directed at Amazon. Amazon further states that it lacks sufficient knowledge or

information to form a belief as to the truth of the allegations in Paragraph 49 relating to any other defendant or third party and therefore denies those allegations.

50. To the extent the allegations in Paragraph 50 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 50 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 50 relating to any other defendant or third party and therefore denies those allegations.

51. To the extent the allegations in Paragraph 51 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 51 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 51 relating to any other defendant or third party and therefore denies those allegations.

52. Amazon admits that it has entered into agreements with Orchard Enterprises NY, Inc., and other third parties, authorizing Amazon to offer through its Amazon Music store the digital phonorecord delivery of certain sound recordings of nondramatic musical works. Except as expressly admitted, Amazon denies the allegations of Paragraph 52 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 52 and therefore denies those allegations.

53. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 53 and therefore denies those allegations.

54. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 54 and therefore denies those allegations.

55. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 55 and therefore denies those allegations.

56. The allegations in Paragraph 56 identify exhibits to the Complaint and therefore no response is required. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 56 and therefore denies those allegations.

57. The allegations in Paragraph 57 identify exhibits to the Complaint and therefore no response is required. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 57 and therefore denies those allegations.

58. To the extent the allegations in Paragraph 58 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 58 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 58 relating to any other defendant and therefore denies those allegations.

59. To the extent the allegations in Paragraph 59 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 59 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 59 relating to any other defendant and therefore denies those allegations.

60. To the extent the allegations in Paragraph 60 set forth one or more legal conclusions, they require no response. Amazon admits that the copyright in a nondramatic musical work is distinct from the copyright in the sound recording of such nondramatic musical

work. Except as expressly admitted, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 60 and therefore denies those allegations.

61. To the extent the allegations in Paragraph 61 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 61.

62. To the extent the allegations in Paragraph 62 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 62 and therefore denies those allegations.

63. To the extent the allegations in Paragraph 63 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon refers to the full text of the applicable statutory provision(s) for the complete and accurate contents thereof.

64. To the extent the allegations in Paragraph 64 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon refers to the full text of the applicable statutory provision(s) for the complete and accurate contents thereof. Amazon lacks sufficient knowledge and information to form a belief as to the truth of the remaining allegations in Paragraph 64 and therefore denies those allegations.

65. To the extent the allegations in Paragraph 65 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon refers to the full text of the applicable statutory provision(s) for the complete and accurate contents thereof. Amazon lacks sufficient knowledge and information to form a belief as to the truth of the remaining allegations in Paragraph 65 and therefore denies those allegations.

66. To the extent the allegations in Paragraph 66 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon refers to the full text of the applicable statutory provision(s) for the complete and accurate contents thereof. Amazon lacks sufficient knowledge and information to form a belief as to the truth of the remaining allegations in Paragraph 66 and therefore denies those allegations.

67. To the extent the allegations in Paragraph 67 set forth one or more legal conclusions, they require no response. To the extent a response is required, Amazon lacks sufficient knowledge and information to form a belief as to the truth of the allegations in Paragraph 67 and therefore denies those allegations.

68. To the extent the allegations in Paragraph 68 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon refers to the full text of the applicable statutory provision(s) for the complete and accurate contents thereof. To the extent a response is required, Amazon lacks sufficient knowledge and information to form a belief as to the truth of the allegations in Paragraph 68 and therefore denies those allegations.

69. To the extent the allegations in Paragraph 69 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon refers to the full text of the applicable statutory provision(s) for the complete and accurate contents thereof. To the extent a response is required, Amazon lacks sufficient knowledge and information to form a belief as to the truth of the allegations in Paragraph 69 and therefore denies those allegations.

70. Amazon admits on information and belief that the Harry Fox Agency is an entity that provides mechanical licensing services. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 70 and therefore denies those allegations.

71. Amazon admits on information and belief that RightsFlow is an entity that provided mechanical licensing services. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 71 and therefore denies those allegations.

72. To the extent the allegations in Paragraph 72 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 72 and therefore denies those allegations.

73. To the extent the allegations in Paragraph 73 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 73 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 73 relating to any other defendant or third party and therefore denies those allegations.

74. To the extent the allegations in Paragraph 74 set forth one or more legal conclusions, they require no response. Amazon refers to the applicable statutory provision(s) for the complete and accurate contents thereof.

75. To the extent the allegations in Paragraph 75 set forth one or more legal conclusions, they require no response. Amazon refers to the applicable statutory provision(s) for the complete and accurate contents thereof.

76. To the extent the allegations in Paragraph 76 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 76 and therefore denies those allegations.

77. To the extent the allegations in Paragraph 77 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon refers to the full text of the applicable statutory provision(s) for the complete and accurate contents thereof. To the extent a response is required, Amazon lacks sufficient knowledge and information to form a belief as to the truth of the remaining allegations in Paragraph 77 and therefore denies those allegations.

78. To the extent the allegations in Paragraph 78 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon refers to the full text of the Digital Performance Right in Sound Recordings Act for the complete and accurate contents thereof. To the extent a response is required, Amazon lacks sufficient knowledge and information to form a belief as to the truth of the allegations in Paragraph 78 and therefore denies those allegations.

79. To the extent the allegations in Paragraph 79 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon refers to the full text of the cited authority for the complete and accurate contents thereof.

80. To the extent the allegations in Paragraph 80 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon refers to the full text of the cited authority for the complete and accurate contents thereof.

81. To the extent the allegations in Paragraph 81 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 81 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 81 relating to any other defendant and therefore denies those allegations.

82. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 82 and therefore denies those allegations.

83. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 83 and therefore denies those allegations.

84. Amazon admits that its online music store allows (a) the option to purchase digital recordings as individual downloads or as albums; (b) the ability to play samples of the recordings, at no cost, before purchase; and (c) information about the recordings available for sale as downloads displayed with the content, including song title, recording artist, album, and record label and/or copyright owner. Except as expressly admitted, Amazon denies the allegations in Paragraph 84. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 84 relating to any other defendant and therefore denies those allegations.

85. Amazon admits that it generally requires aggregators to provide certain information relating to each phonorecord delivered. Except as expressly admitted, Amazon denies the allegations in Paragraph 85. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 85 relating to any other defendant and therefore denies those allegations.

86. Amazon admits that it generally does not alter metadata associated with the phonorecords delivered by its content providers and that certain metadata fields such as the name of the releasing record label and/or the copyright in the recording are displayed as part of the catalog information for each phonorecord offered for digital phonorecord download in Amazon's online music store. Except as expressly admitted, Amazon denies the allegations in Paragraph 86. Amazon further states that it lacks sufficient knowledge or information to form a belief as to

the truth of the allegations in Paragraph 86 relating to any other defendant and therefore denies those allegations.

87. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 87 and therefore denies those allegations.

88. To the extent the allegations in Paragraph 88 identify exhibits to the Complaint, they require no response. To the extent a response is required, Amazon admits that it sometimes displays the name of the record label provided by the content provider in connection with phonorecords available in Amazon's online music store. Except as expressly admitted, Amazon denies the allegations in Paragraph 88. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 88 relating to any other defendant and therefore denies those allegations.

89. To the extent the allegations in Paragraph 89 set forth one or more legal conclusions or opinions and not factual allegations, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 89 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 89 relating to any other defendant and therefore denies those allegations.

90. To the extent the allegations in Paragraph 90 set forth one or more legal conclusions or opinions and not factual allegations, they require no response. Amazon admits that admits that Dkt. No. 155, p. 9 provides as follows: "The Retailer Defendants have contractual relationships with the ultimate content supplier, not the original owner of the content or any intermediary. The Retailer Defendants also do not require their suppliers to identify the source of their content, nor do the Retailer Defendants inquire or investigate as to who those entities are. They simply do not have reliable information from which to identify other entities in

the chain in order to assess whether or how mechanical rights associated with the relevant content were secured.” Subject to the foregoing, Amazon denies the allegations in Paragraph 90 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 90 relating to any other defendant and therefore denies those allegations.

91. To the extent the allegations in Paragraph 91 set forth one or more legal conclusions or opinions and not factual allegations, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 91 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 91 relating to any other defendant and therefore denies those allegations.

92. Amazon admits that defendant Orchard Enterprises NY, Inc. has entered into agreements with Amazon authorizing Amazon to offer through its Amazon Music store the digital phonorecord delivery of certain sound recordings of nondramatic musical works. Except as expressly admitted, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 92 and therefore denies those allegations.

93. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 93 and therefore denies those allegations.

94. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 94 and therefore denies those allegations.

95. Amazon denies that it has engaged in copyright infringement, including but not limited to “mass copyright infringement.” Amazon lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 95 and therefore denies those allegations.

96. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 96 and therefore denies those allegations.

97. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 97 and therefore denies those allegations.

98. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 98 and therefore denies those allegations.

99. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 99 and therefore denies those allegations.

100. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 100 and therefore denies those allegations.

101. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 101 and therefore denies those allegations.

102. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 102 and therefore denies those allegations.

103. Amazon denies the allegations in Paragraph 103 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 104 relating to any other defendant and therefore denies those allegations.

104. Amazon admits that it owned and operated Amazon MP3, an online digital music service beginning in September 2007 and ceased operation of Amazon MP3 on June 11, 2014. Amazon admits that it owns and operates Amazon Music, an online digital music service. Amazon further admits that it currently has more than 26 million tracks available for digital phonorecord delivery from its Amazon Music online store and that tracks may be downloaded

from Amazon Music on an à la carte basis. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 104 and therefore denies those allegations.

105. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 105 and therefore denies those allegations.

106. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 106 and therefore denies those allegations.

107. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 107 and therefore denies those allegations.

108. Amazon admits on information and belief the allegations in Paragraph 108.

109. Amazon denies the allegations in Paragraph 109 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 109 relating to any other defendant and therefore denies those allegations.

110. Amazon admits that it has entered into agreements with Orchard Enterprises NY, Inc. and other suppliers of audio files that authorize Amazon to offer through its Amazon Music store the digital phonorecord delivery of certain sound recordings of nondramatic musical works. Amazon refers to those agreements for the complete and accurate contents thereof. Except as expressly admitted, Amazon denies the allegations in Paragraph 110 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 110 relating to other Digital Retailers and therefore denies those allegations.

111. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 111 and therefore denies those allegations.

112. Amazon denies the allegations in Paragraph 112 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 112 relating to other digital music retailers and therefore denies those allegations.

113. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 113 and therefore denies those allegations.

114. Amazon admits that it has entered into agreements with Orchard Enterprises NY, Inc. authorizing Amazon to offer through its Amazon Music store the digital phonorecord delivery of certain sound recordings of nondramatic musical works. Except as expressly admitted, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 114 and therefore denies those allegations.

115. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 115 and therefore denies those allegations and refers to the cited press release for the complete and accurate contents thereof.

116. Amazon admits that it has entered into agreements with Orchard Enterprises NY, Inc. authorizing Amazon to offer through its Amazon Music store the digital phonorecord delivery of certain sound recordings of nondramatic musical works. Amazon refers to those agreements for the complete and accurate contents thereof. Except as expressly admitted, Amazon lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 116 and therefore denies those allegations.

117. Amazon denies the allegations in Paragraph 117 and refers to the agreements between Amazon and Orchard Enterprises NY, Inc. for the complete and accurate contents thereof. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 117 relating to any other defendant and therefore denies those allegations.

118. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 118 and therefore denies those allegations.

119. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 119 and therefore denies those allegations. Amazon further refers to the cited SEC filings for the complete and accurate contents thereof.

120. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 120 and therefore denies those allegations.

121. To the extent the allegations in Paragraph 121 set forth one or more legal conclusions or opinions and not factual allegations, they require no response. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 121 and therefore denies those allegations.

122. To the extent the allegations in Paragraph 122 set forth one or more legal conclusions or opinions and not factual allegations, they require no response. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 122 and therefore denies those allegations.

123. To the extent the allegations in Paragraph 123 set forth one or more legal conclusions or opinions and not factual allegations, they require no response. Amazon lacks

sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 123 and therefore denies those allegations.

124. To the extent the allegations in Paragraph 124 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 124 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations relating to any other defendant and therefore denies those allegations. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 124 and therefore denies those allegations.

125. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 125 and therefore denies those allegations.

126. Amazon denies the allegations in Paragraph 126 that relate to Amazon. Amazon states that it lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 126 and therefore denies those allegations. Amazon further states that the allegations in Paragraph 126 identify exhibits to the Complaint or set forth one or more legal conclusions to which no response is required.

127. To the extent the allegations in Paragraph 127 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 127 and therefore denies those allegations.

128. To the extent the allegations in Paragraph 128 identify exhibits to the Complaint or set forth one or more legal conclusions, they require no response. Subject to the foregoing,

Amazon states that it lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 128 and therefore denies those allegations.

129. To the extent the allegations in Paragraph 129 identify exhibits to the Complaint or set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon states that it lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 129 and therefore denies those allegations.

130. To the extent the allegations in Paragraph 130 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 130 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations relating to any other defendant and therefore denies those allegations.

131. To the extent the allegations in Paragraph 131 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 131 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations relating to any other defendant and therefore denies those allegations.

132. To the extent the allegations in Paragraph 132 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 132 and therefore denies those allegations.

133. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 133 and therefore denies those allegations.

134. To the extent the allegations in Paragraph 134 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 134 and therefore denies those allegations.

135. To the extent the allegations in Paragraph 135 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 135 and therefore denies those allegations.

136. To the extent the allegations in Paragraph 136 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 136 and therefore denies those allegations.

137. To the extent the allegations in Paragraph 137 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 137 and therefore denies those allegations.

138. To the extent the allegations in Paragraph 138 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 138 and therefore denies those allegations.

139. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 139 and therefore denies those allegations.

140. To the extent the allegations in Paragraph 140 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 140 and therefore denies those allegations.

141. To the extent the allegations in Paragraph 141 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon refers to the full text of the applicable statutory provision(s) for the complete and accurate contents thereof.

142. To the extent the allegations in Paragraph 142 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 142 and refers to the full text of the applicable statutory provision(s) for the complete and accurate contents thereof.

143. To the extent the allegations in Paragraph 143 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 143 and refers to the full text of the applicable statutory provision(s) for the complete and accurate contents thereof.

144. To the extent the allegations in Paragraph 144 set forth one or more legal conclusions, they require no response. To the extent a response is required, Amazon denies the allegations in Paragraph 144 that relate to Amazon. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 144 and therefore denies those allegations.

145. To the extent the allegations in Paragraph 145 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon states that it lacks

sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 145 and therefore denies those allegations.

146. To the extent the allegations in Paragraph 146 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 146 and therefore denies those allegations.

147. To the extent the allegations in Paragraph 147 set forth one or more legal conclusions or identify exhibits to the Complaint, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 147 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 147 relating to any other defendant or third party and therefore denies those allegations.

148. To the extent the allegations in Paragraph 148 set forth one or more legal conclusions, they require no response. Amazon refers to the applicable statutory provision(s) for the complete and accurate contents thereof. Subject to the foregoing, Amazon denies the allegations in Paragraph 148 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 148 relating to any other defendant and therefore denies those allegations.

149. To the extent the allegations in Paragraph 149 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 149 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 149 relating to any other defendant and therefore denies those allegations.

150. To the extent the allegations in Paragraph 150 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 150 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 150 and therefore denies those allegations.

151. To the extent the allegations in Paragraph 151 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 151 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 151 and therefore denies those allegations.

152. To the extent the allegations in Paragraph 152 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 152 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 152 relating to any other defendant and therefore denies those allegations.

153. Amazon denies the allegations in Paragraph 153 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 153 relating to any other defendant and therefore denies those allegations. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 153 and therefore denies those allegations.

154. To the extent the allegations in Paragraph 154 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in

Paragraph 154 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 154 relating to any other defendant and therefore denies those allegations.

155. To the extent the allegations in Paragraph 155 set forth one or more legal conclusions, they require no response. Amazon refers to the applicable statutory provision(s) for the complete and accurate contents thereof. Subject to the foregoing, Amazon denies the allegations in Paragraph 155 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 155 relating to any other defendant and therefore denies those allegations.

156. To the extent the allegations in Paragraph 156 set forth one or more legal conclusions, they require no response. Amazon refers to the full text of the Copyright Act for the complete and accurate contents thereof. Subject to the foregoing, Amazon denies the allegations in Paragraph 156 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 156 relating to any other defendant and therefore denies those allegations.

157. To the extent the allegations in Paragraph 157 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 157 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 157 relating to any other defendant and therefore denies those allegations.

158. To the extent the allegations in Paragraph 158 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 158 directed at Amazon. Amazon further states that it lacks sufficient knowledge or

information to form a belief as to the truth of the allegations in Paragraph 158 relating to any other defendant and therefore denies those allegations.

159. To the extent the allegations in Paragraph 159 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 159 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 159 relating to any other defendant and therefore denies those allegations.

160. Amazon admits that Plaintiff purports to bring this action as alleged in Paragraph 160. Amazon denies all remaining allegations in Paragraph 160. Amazon denies that the requisites for class treatment are present.

161. To the extent the allegations in Paragraph 161 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 161. Amazon denies that the requisites for class treatment are present.

162. To the extent the allegations in Paragraph 162 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 162 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 162 relating to any other defendant and therefore denies those allegations. Amazon denies that the requisites for class treatment are present.

163. To the extent the allegations in Paragraph 163 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 163 directed at Amazon. Amazon further states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 163 relating to any

other defendant and therefore denies those allegations. Amazon denies that the requisites for class treatment are present.

164. To the extent the allegations in Paragraph 164 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon states that it lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 164 and therefore denies those allegations. Amazon denies that the requisites for class treatment are present.

165. To the extent the allegations in Paragraph 165 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 165 and denies that the requisites for class treatment are present.

166. To the extent the allegations in Paragraph 166 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 166 and denies that the requisites for class treatment are present.

167. Amazon repeats and re-alleges each and every response set forth in the foregoing Paragraphs as if fully set forth herein.

168. To the extent the allegations in Paragraph 168 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 168 directed at Amazon and states that it is authorized by third parties to offer through its Amazon Music store the digital phonorecord delivery of certain sound recordings of nondramatic musical works. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 168 relating to any other defendant and therefore denies those allegations.

169. To the extent the allegations in Paragraph 169 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 169 directed at Amazon. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 169 relating to any other defendant and therefore denies those allegations.

170. To the extent the allegations in Paragraph 170 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 170 directed at Amazon. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 170 relating to any other defendant and therefore denies those allegations.

171. To the extent the allegations in Paragraph 171 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 171 directed at Amazon. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 171 relating to any other defendant and therefore denies those allegations. Without in any way limiting the scope of its denial, Amazon specifically denies that Plaintiff or the putative class are entitled to an award of damages under 17 U.S.C. § 504(c), or at all.

172. To the extent the allegations in Paragraph 172 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 172 directed at Amazon. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 172 relating to any other defendant and therefore denies those allegations. Without in any way limiting the scope of its denial, Amazon

specifically denies that Plaintiff or the putative class are entitled to an award of damages under 17 U.S.C. § 504(a)-(b), or at all.

173. To the extent the allegations in Paragraph 173 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 173 directed at Amazon. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 173 relating to any other defendant and therefore denies those allegations. Without in any way limiting the scope of its denial, Amazon specifically denies that Plaintiff or the putative class are entitled to an award of damages under 17 U.S.C. § 505, or at all.

174. To the extent the allegations in Paragraph 174 set forth one or more legal conclusions, they require no response. Subject to the foregoing, Amazon denies the allegations in Paragraph 174 directed at Amazon. Amazon lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 174 relating to any other defendant and therefore denies those allegations.

ANSWER TO JURY DEMAND

175. Amazon admits that Plaintiff purports to demand a jury trial. Except as expressly admitted, Amazon denies the allegations in Paragraph 175.

ANSWER TO PRAYER FOR RELIEF

Amazon denies that Plaintiff is entitled to relief against the Defendants, and requests that the Court dismiss all claims against Defendants with prejudice and order such further relief as the Court deems just and proper.

AFFIRMATIVE DEFENSES

Amazon sets forth below its affirmative defenses. Each defense is asserted as to all claims asserted against Amazon. By setting forth these defenses, Amazon does not assume the burden of proving any fact, issue or element of a claim where such burden properly belongs to Plaintiff. Amazon reserves the right to raise additional Affirmative Defenses as the facts and discovery in this case warrant and in response to any new or amended claims or allegations asserted by Plaintiff. Amazon hereby adopts and incorporates by reference asserted or to be asserted by any other defendant in this proceeding to the extent that Amazon may share in any such defenses.

FIRST DEFENSE

This action is barred, in whole or in part, because the Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

This action is barred, in whole or in part, because Plaintiff and/or the putative class members lack standing to assert the claims alleged in this action.

THIRD DEFENSE

This action is barred, in whole or in part, because, to the extent the putative class members are covered by 17 U.S.C. § 411 and have not complied with its requirements, they lack standing to pursue the claims for relief alleged in the Complaint and cannot be members of the putative class.

FOURTH DEFENSE

This action is barred, in whole or in part, because, to the extent the putative class members are covered by 17 U.S.C. § 411 and have not complied with its requirements, this Court

lacks subject matter jurisdiction over the claims for relief alleged on their behalf and they cannot be members of the putative class.

FIFTH DEFENSE

Plaintiff's claim and/or the claim of any members of the putative class are barred, in whole or in part, by the doctrine of estoppel.

SIXTH DEFENSE

Plaintiff's claim and/or the claim of any members of the putative class are barred, in whole or in part, by the doctrines of waiver, abandonment, and/or forfeiture.

SEVENTH DEFENSE

Plaintiff's claim and/or the claim of any members of the putative class are barred, in whole or in part, by the doctrine of laches.

EIGHTH DEFENSE

Plaintiff's claim and/or the claim of any members of the putative class are barred, in whole or in part, by the doctrines of unclean hands and/or copyright misuse.

NINTH DEFENSE

Plaintiff's claim and/or the claim of any members of the putative class are barred, in whole or in part, by the doctrine of accord and satisfaction.

TENTH DEFENSE

This action is barred, in whole or in part, because neither plaintiff nor any members of the putative class have suffered any damage or injury as a result of any act or conduct by Amazon.

ELEVENTH DEFENSE

Plaintiff's damages, if any, and/or the damages of any members of the putative class, if any, were not caused, in whole or in part, by the alleged conduct of Amazon.

TWELFTH DEFENSE

Plaintiff's claim and/or the claim of any members of the putative class are barred, in whole or in part, because the exploitations of the musical compositions at issue were licensed and/or authorized.

THIRTEENTH DEFENSE

Plaintiff's claim and/or the claim of any members of the putative class are barred, in whole or in part, by the applicable statutes of limitation.

FOURTEENTH DEFENSE

Plaintiff's claim and/or the claim of any members of the putative class are barred, in whole or in part, by the doctrines of acquiescence and consent.

FIFTEENTH DEFENSE

This action is barred, in whole or in part, because the Complaint fails to state a claim upon which any type of injunctive, temporary, or preliminary relief can be properly granted against Amazon.

SIXTEENTH DEFENSE

Plaintiff's claim and/or the claim of any members of the putative class for equitable relief, including claims for injunctive, temporary, or preliminary relief, are barred because Plaintiff and/or the putative class have an adequate remedy at law.

SEVENTEENTH DEFENSE

This action cannot be maintained as a class action because the ascertainability requirement of Rule 23 of the Federal Rules of Civil Procedure is not met.

EIGHTEENTH DEFENSE

This action cannot be maintained as a class action because the numerosity requirement of Rule 23 of the Federal Rules of Civil Procedure is not met.

NINETEENTH DEFENSE

This action cannot be maintained as a class action because the commonality requirement of Rule 23 of the Federal Rules of Civil Procedure is not met.

TWENTIETH DEFENSE

This action cannot be maintained as a class action because the typicality requirement of Rule 23 of the Federal Rules of Civil Procedure is not met.

TWENTY-FIRST DEFENSE

This action may not be maintained as a class action because the adequacy requirement of Rule 23 of the Federal Rules of Civil Procedure is not met.

TWENTY-SECOND DEFENSE

This action may not be maintained as a class action because individual issues predominate over issues common to the putative class.

TWENTY-THIRD DEFENSE

This action may not be maintained as a class action because the interests of the putative class members are in conflict with each other.

TWENTY-FOURTH DEFENSE

This action may not be maintained as a class action because a class action is not a superior means of adjudication.

TWENTY-FIFTH DEFENSE

Plaintiff's claim and/or the claim of any members of the putative class are barred, in whole or in part, to the extent that their purported copyright registrations are invalid and/or have not been properly obtained.

TWENTY-SIXTH DEFENSE

Plaintiff's claim and/or the claim of any members of the putative class are barred, in whole or in part, to the extent that any of the class members' works are in the public domain.

TWENTY-SEVENTH DEFENSE

This action is barred, in whole or in part, because, to the extent any reproduction, sale, distribution or other use of any of the musical compositions at issue in this action are found to have been infringements of the copyrights in said musical compositions, Amazon was not aware and had no reason to believe that those acts constituted an infringement of those copyrights.

TWENTY-EIGHTH DEFENSE

This action is barred, in whole or in part, because Plaintiff and/or the putative class have failed to mitigate damages and have failed to exercise due diligence in an effort to mitigate their damages (to which, in any event, they are not entitled).

TWENTY-NINTH DEFENSE

This action is barred, in whole or in part, because the Court lacks jurisdiction over some or all of the claims asserted by Plaintiff and/or the putative class.

THIRTIETH DEFENSE

Plaintiff's claim and/or the claim of any members of the putative class are barred, in whole or in part, because Plaintiff's damages and/or the damages of putative class, if any, were caused by independent, intervening and/or superseding events beyond the control of Amazon and

unrelated to Amazon's conduct. Any loss, injury, or damage claimed by Plaintiff and/or the putative class was proximately caused by the Plaintiff or putative class members' own acts or omissions, forces and events unrelated to Amazon's alleged conduct, and/or the acts or omissions of persons or entities other than Amazon, over which Amazon has no control.

THIRTY-FIRST DEFENSE

Plaintiff's claim and/or the claim of any members of the putative class for attorneys' fees is barred because it lacks any basis in law or contract.

THIRTY-SECOND DEFENSE

This action is barred, in whole or in part, because, to the extent members of the putative class have not complied with 17 U.S.C. § 412, they are not entitled to recover statutory damages or attorneys' fees in connection with any of the claims for relief alleged in the Complaint, and cannot be members of the putative class.

THIRTY-THIRD DEFENSE

Amazon is absolved from any and all liability for the wrongs alleged in the Complaint by reason of its full compliance with all statutes, regulations, or other laws in effect at the time of the conduct alleged in the Complaint.

THIRTY-FOURTH DEFENSE

The prayer for an award of statutory damages for willful infringement in the amount of up to \$750 per work infringed is barred in whole or in part by the Fifth and Eighth Amendments to the United States Constitution, as such damages would constitute excessive fines in light of the compulsory license rate of \$0.091 per reproduction of musical compositions in connection with the sale and distribution of sound recordings.

THIRTY-FIFTH DEFENSE

This action is barred, in whole or in part, under the safe harbor provisions of the Digital Millennium Copyright Act, 17 U.S.C. § 512 (“DMCA”).

THIRTY-SIXTH DEFENSE

The claims in the Third Amended Class Action Complaint, and the certification of the putative class, violate Amazon’s rights under the United States Constitution, including without limitation the following provisions: (a) the claims constitute an impermissible burden on interstate commerce in contravention of Article 1, Section 8 of the United States Constitution; (b) the claims violate Amazon’s rights to Due Process under the Fourteenth Amendment of the United States Constitution; (c) the claims contravene the constitutional prohibition against vague and overbroad laws; and (d) the claims contravene freedom of speech rights under the First and Fourteenth Amendments of the United States Constitution.

THIRTY-SEVENTH DEFENSE

The Third Amended Class Action Complaint should be dismissed under Rule 12(b)(7) of the Federal Rules of Civil Procedure for failure to join necessary and indispensable parties under Rule 19 of the Federal Rules of Civil Procedure.

THIRTY-EIGHTH DEFENSE

Plaintiff’s and the putative class’s claims are barred in whole or in part because the Copyright Act does not apply extraterritorially.

THIRTY-NINTH DEFENSE

Plaintiff’s and the putative class’s claims are barred in whole or in part because the damages sought are too speculative and remote.

FORTIETH DEFENSE

Plaintiff's and the putative class's claims are barred in whole or in part by the release of the asserted claims.

San Francisco, California
May 26, 2015

/s/ Kenneth L. Steinthal

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CERTIFICATE OF SERVICE

I hereby certify that on May 26, 2015, I electronically filed the foregoing with the Clerk of Court using the ECF system, which will send notification of such filing to all counsel of record.

Dated May 26, 2015
San Francisco

/s/ Kenneth L. Steinthal
Kenneth L. Steinthal